

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Child Care Commission intends to amend the rule cited as 10A NCAC 09 .1701.

Proposed Effective Date: November 1, 2006

Public Hearing:

Date: May 11, 2006

Time: 11:00 a.m. – 12:00 p.m.

Location: NC Division of Child Development, 319 Chapanoke Rd., Suite 120, Raleigh, NC

Reason for Proposed Action: *The NC Child Care Commission is initiating rule-making to Rule .1701(b) and (c) pursuant to G.S. 150B-20. A rule-making petition was submitted by the Rockingham Family Child Care Home Association regarding requirements for substitute caregivers. The petition seeks to relax some of the requirements for substitute caregivers in family child care homes.*

Further amendments are to .1701(i). The Commission has adopted several recommendations of the Abuse and Neglect Task Force and had proposed to amend the following rules: 10A NCAC 9 .0301, .0707, .0712, .0713, .1606, .1701, .1718, .2201 and .2803. All of the rules were approved by the RRC except for Rule .1701, which must be republished.

When the Commission previously published text for .1701, one of the changes it proposed was to prohibit family home operators from sleeping while children were in care; and to limit the number of hours a family child care home could operate to 17, rather than the 24 hours currently allowed. The Commission received much feedback from family child care home providers and the public about the impact this would have on these small businesses, and also on parents who need non-traditional hours of child care, especially those who work third shift. After the public comment period ended, the Commission reconsidered this change and decided to allow the current language in .1701(h) to remain, i.e., no limit would be imposed on the number of hours of operation. However, the Commission added new language in .1701(i) to require that family child care home operators develop a written plan of care for completing routine tasks to ensure that such tasks will not interfere with the care of children.

Procedure by which a person can object to the agency on a proposed rule: *Anyone wishing to comment on this proposed rule or to request copies of the rule should contact Dedra Alston, Rule-making Coordinator, NC Division of Child Development, 2201 Mail Service Center, Raleigh, NC 27699-2201, at (919) 662-4543 or Dedra.Alston@ncmail.net. Written comments will be accepted through May 15, 2006. Oral comments may be made during the public hearing. The Commission Chairperson may impose time limits for oral remarks.*

Comments may be submitted to: *Dedra Alston, 2201 Mail Service Center, Raleigh, NC 27699-2201, phone (919) 662-4543, fax (919) 662-4568, email Dedra.Alston@ncmail.net.*

Comment period ends: May 15, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: *If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.*

Fiscal Impact:

- ☐ State
- ☐ Local
- ☐ Substantive (> \$3,000,000)
- ☒ None

CHAPTER 09 – DAY CARE RULES

SECTION .1700 – FAMILY CHILD CARE HOME REQUIREMENTS

10A NCAC 09 .1701 GENERAL PROVISIONS RELATED TO LICENSURE OF HOMES

(a) All family child care homes shall comply with the standards for licensure set forth in this Section. A one- star rated license shall be issued to a family child care home operator who complies with the minimum standards for a license contained in this Section and G.S. 110-91.

(b) ~~If an additional individual provides care on a regular basis of at least once per week, while the operator is not on the premises, in the absence of the provider in excess of 20 hours weekly or at least half of the hours of operation,~~ the additional individual shall meet all requirements for qualifications, training, and records as found in G.S. 110-91(8), 10A NCAC 09 .2702 and this Section. Copies of required

information shall be on file in the home available for review and shall be transferable to other family child care homes where the individual is providing substitute care.

(c) An individual who is a regular substitute and provides care during planned absences of the operator such as ~~vacations and regularly scheduled appointments, appointments and taking classes,~~ shall be at least 21 years old, ~~have a high school diploma or GED,~~ have completed a first aid ~~and cardiopulmonary resuscitation (CPR)~~ course as described in Rule .1705, ~~Paragraphs (a)(3) and (b)(2) Subparagraphs (a)(3), (a)(4), (b)(2), and (b)(3) of this Section,~~ have completed a health questionnaire, have proof of negative results of a tuberculosis test completed within 12 months prior to the first day of providing substitute care, and submit criminal records check forms as required in 10A NCAC 09 .2702, Paragraph (j). Copies of required information shall be on file in the home available for review and shall be transferable to other family child care homes where the individual is providing substitute care.

(d) ~~It shall be the operator's responsibility to~~ The operator shall review the appropriate requirements found in this ~~Subchapter Chapter~~ and in G.S. 110 with any individuals who are providing care prior to the individual's assuming responsibility for the children. The operator and individual providing care shall sign and date a statement which attests that this review was completed. This statement shall be kept on file in the home available for review.

(e) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be at least 18 years old and submit criminal records check forms as required in 10A NCAC 09 .2702, Paragraph (j). The children of an emergency caregiver shall not be counted in the licensed capacity for the first day of the emergency caregiver's service.

(f) The provisions of G.S. 110-91(8) which exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from operating or being employed in a family child care home are hereby incorporated by reference and shall also apply to any person on the premises with the operator's permission when the children are present. This exclusion shall not apply to parents or other persons who enter the home only for the purpose of performing parental responsibilities; nor does it include persons who enter the home for brief periods for the purpose of conducting business with the operator and who are not left alone with the children.

(g) The parent of a child enrolled in any family child care home subject to regulation under G.S. 110, Article 7 ~~of these Rules~~ shall be allowed unlimited access to the home during its operating hours for the purposes of contacting the child or evaluating the home and the care provided by the operator. The parent shall notify the operator of his or her presence immediately upon entering the premises.

(h) An operator licensed to care for children overnight may sleep during the nighttime hours when all the children are asleep provided:

- (1) the operator and the children in care, excluding the operator's own children, are on ground level; and
- (2) the operator can hear and respond quickly to the children if needed; and
- (3) a battery operated smoke detector or an electrically operated (with a battery backup) smoke detector is located in each room where children are sleeping.

(i) Each operator shall develop and adopt a written plan of care for completing routine tasks; including running errands, meeting family and personal demands, and attending classes, to ensure that routine tasks shall not interfere with the care of children during hours of operation. The plan shall:

- (1) Specify typical times for completing routine tasks and include those times on the written schedule, or specify that routine tasks will not occur during hours of operation;
- (2) Specify the names of any individuals, such as additional caregivers or substitutes, who will be responsible for the care of children when the operator is attending to routine tasks;
- (3) Specify how the operator shall maintain compliance with transportation requirements specified in 10A NCAC 09 .1723 if children are transported;
- (4) Specify how parents will be notified when children accompany the operator off premises for routine tasks not specified on the written schedule;
- (5) Specify any other steps the operator shall take to ensure routine tasks will not interfere with the care of children;
- (6) Be given and explained to parents of children in care on or before the first day the child attends the home. Parents shall sign a statement acknowledging the receipt and explanation of the plan. Parents shall also give written permission for their child to be transported by the operator for specific routine tasks that are included on the written schedule. The acknowledgement and written parental permission shall be retained in the child's record as long as the child is enrolled at the home and a copy of each document shall be maintained on file for review by Division representatives.

(j) If the operator amends the written plan, the operator shall give written notice of the amendment to parents of all enrolled children at least 30 days before the amended plan is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's records as long as the child is enrolled in the home and a copy shall be maintained on file for review by Division representatives.

(k) The written plan shall be developed and shared with parents of children currently enrolled within 60 days after Paragraph (i) of this Rule becomes effective.